

Court of Appeals, State of Michigan

ORDER

People of MI v William Clyde Henix

Docket No. 312957

LC No. 10-034370-FH

Peter D. O'Connell
Presiding Judge

Donald S. Owens

Michael J. Kelly
Judges

On the Court's own motion, the Clerk's Office shall treat defendant's delayed application for leave to appeal as filed within the deadline set forth in MCR 7.205(F)(3) because appellate counsel's failure to file the delayed application within the deadline constituted ineffective assistance of counsel. *People v Means*, 480 Mich 989 (2007); *People v McCoy*, 480 Mich 989 (2007); *People v Rodgers*, 480 Mich 989 (2007); and *People v Kipfer*, 480 Mich 990 (2007). We note that MCR 7.205(F)(4) did not extend the time for filing the delayed application. Particularly, nothing in MCR 7.205(F)(4) provides for the filing deadline to be extended based on the filing of a motion to vacate appointment of appellate counsel in the trial court.

Attorney Kathryn L. Simmons (P44504) shall pay to the Clerk of this Court costs of \$250 within 21 days of the Clerk's certification of this order. This sanction is personal to the attorney and shall not be charged back to the county or the state.

The Clerk's Office shall send a copy of this order to Thomas M. Harp, the Administrator of the Michigan Appellate Assigned Counsel System.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 02 2012

Date

Sandra Schultz Mengel
Chief Clerk